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AJMER STATE GOVERNMENT

Law and Judicial Department

Ajmer, the 8th December, 1954

The following Act of the Ajmer Legislative Assembly received the assent of the President on the 25th November, 1954 and is hereby published for general information:—

THE AJMER STATE PANCHAYAT ACT, 1954

ACT No. VII OF 1954

An Act to establish and develop local self-government in the State of Ajmer.

BE it enacted by the Lagislative Assembly of the State of Ajmer as follows:—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Ajmer State Panchayat Act, 1954.

(2) It extends to the whole of the State of Ajmer except the areas which are at any time included in a Municipality under the provisions of the Ajmer-Merwara Municipalities Regulation, 1925 (VI of 1925), or a Cantonment under the provisions of the Cantonments Act, 1924 (II of 1924).

(3) Sections 1 and 2 shall come into force at once and such of the remaining provisions of this Act shall come into force in such areas and on such dates as the State Government may by notification appoint.

2. **Interpretation clause.**—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “adult” means a person who is not less than twenty-one years of age;

- (b) "building" includes a hut, shed, house, *nohra*, shop, warehouse or workshop;
- (c) "case" means a criminal proceeding in respect of an offence triable by a Nyaya Panchayat;
- (d) "circle" means the area within which a Nyaya Panchayat exercises jurisdiction under section 49;
- (e) "Joint Committee" means a committee formed under section 17;
- (f) "notification" means a notification published in the official Gazette;
- (g) "Nyaya Panchayat" means a Nyaya Panchayat constituted under section 50 for the purpose of the trial of suits and cases;
- (h) "Panch" means a member of a Nyaya Panchayat appointed under section 50 other than a Sarpanch;
- (i) "Panchayat" means a Panchayat established under this Act;
- (j) "population" means the population of a village or area as determined in the manner prescribed in this behalf;
- (k) "prescribed" means prescribed by rules;
- (l) "Prescribed Authority" means an authority notified as such by the State Government either generally or for particular purposes;
- (m) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860;
- (n) "public street" means and includes any road, street, bridge, lane, square, court-yard, alley, or passage which the public has a right to pass along, and includes on either side the drains or gutters and land up to the defined boundary of any abutting property, notwithstanding any projection over such land of any verandah or other superstructure;
- (o) "rules" means rules made under this Act;
- (p) "Sarpanch" means a Sarpanch appointed under section 51;
- (q) "Scheduled Caste" means any of the castes specified in relation to the State of Ajmer, in the order as in force for the time being, made by the President under clause (1) of Article 341 of the Constitution; and "Scheduled Tribe" means the tribe or any of the tribes specified in relation to the said State, in the order as in force for the time being, made by the President under clause (1) of Article 342 of the Constitution;
- (r) "State Government" means the Chief Commissioner of the State of Ajmer;

- (s) "Sub-Divisional Magistrate" includes a first-class Magistrate specially empowered by order in writing by the State Government for the purposes of any provision of this Act;
- (t) "Sub-Judge", with reference to a Panchayat, means the Sub-Judge having local jurisdiction in the area in which such Panchayat is constituted;
- (u) "suit" means a civil suit triable by a Nyaya Panchayat;
- (v) "village" means any local area, recorded as a village in the revenue records of the State of Ajmer or any other local area which the State Government may by general or special order declare to be a village.

(2) The General Clauses Act, 1897 (X of 1897), applies for the interpretation of this Act as it applies for the interpretation of a Central Act.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF PANCHAYATS

3. Declaration of Panchayat areas.—(1) The State Government may by notification declare any area to be a Panchayat area for the purposes of this Act, and may from time to time by a like notification, extend, contract or otherwise alter the limits of any Panchayat area, or declare that any area shall, from a date to be specified in the notification, cease to be a Panchayat area:

Provided that any village shall not be broken up as a unit for purposes of constituting any Panchayat area unless the Government so decides after inviting and considering objections thereto from the residents of the village concerned.

(2) The State Government shall specify a name for each Panchayat area.

(3) Where by any notification extending or altering the limits of any Panchayat area, any new area is included in an existing Panchayat area, the area so included shall become subject to all notifications, rules, regulations, bye-laws and orders made under this or any other enactment in force in the said existing Panchayat area.

4. Register of voters.—(1) As soon as may be after the declaration of any area as Panchayat area, the Prescribed Authority shall cause to be prepared a register in the prescribed form of all adult persons residing within such area and such register shall among other things contain the name of every person entitled to vote. The register so prepared shall be amended from time to time according to any alteration of the limits of the Panchayat area and shall be revised at least once a year in the manner prescribed.

(2) No disqualification, defect or omission in the enrolment of any person in such register shall vitiate any election or any act or proceeding of a Panchayat.

5. Persons who cannot be enrolled.—No person shall be entitled to have his name enrolled in the register prepared under section 4—

- (a) in more than one Panchayat area or constituency thereof, or
- (b) if he is qualified to vote for elections to any Municipality constituted under the provisions of the Ajmer-Merwara Municipalities Regulation, 1925 (VI of 1925), or to any Cantonment Board constituted under the provisions of the Cantonment Act, 1924 (II of 1924).

6. Persons not entitled to vote.—No adult shall be entitled to vote at any election if he—

- (a) is of unsound mind and stands so declared by a competent court; or
- (b) is an undischarged insolvent; or
- (c) is convicted of an election offence; or
- (d) has been convicted of an offence and sentenced to imprisonment of six months or more involving moral turpitude or ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1898:

Provided that the disqualifications under clause (b) or (c) or (d) may be removed by an order of the State Government.

7. Establishment and constitution of Panchayats.—(1) The State Government may, by notification, establish a Panchayat in any Panchayat area.

(2) Every Panchayat shall consist of the following members:—

- (i) a President, to be called 'Pradhan',
- (ii) a Vice-President, to be called 'Up-Pradhan', and
- (iii) other members not less than 9 and not more than 15 in number as may be specified by notification.

(3) The State Government may from time to time by notification alter the number of members specified under clause (iii) of subsection (2) above.

8. Panchayats elected or nominated bodies.—(1) A Panchayat may be—

- (i) wholly elected by the persons entitled to vote within the Panchayat area, or
 - (ii) wholly nominated by the State Government, or
 - (iii) partly elected and partly nominated as aforesaid,
- as may be declared from time to time by the State Government by notification:

Provided that where the Panchayat is not wholly nominated, the President and the Vice-President shall be elected directly by the persons entitled to vote in the Panchayat area.

(2) Notwithstanding any notification under sub-section (1) where for any reason any election does not result in the return of any person or the required number of persons qualified and willing to take office, the Prescribed Authority shall nominate a person or persons in their place, who would otherwise have been qualified to be elected.

9. Manner of election.—The members of the Panchayat shall be elected in such manner as may be prescribed.

10. Forming of constituencies and reservation of seats.—(1) The State Government may reserve such number of seats in any Panchayat area for the Scheduled Castes as may be in proportion to their population in such area.

(2) A Panchayat area may be divided by the Prescribed Authority into such number of constituencies as may be convenient for the purpose of election.

(3) Nothing contained in sub-section (1) shall be deemed to prevent members of the Scheduled Castes for whom seats have been reserved in any Panchayat area, from standing for election to the non-reserved seats for that area.

11. Persons not eligible for election.—No person shall be eligible for election or nomination as a member of a Panchayat if he—

- (a) is a lambardar or a servant of the State Government;
- (b) is under 25 years of age;
- (c) is a member of an organisation which has been declared unlawful by the State Government;
- (d) has been dismissed from Government service for misconduct or has been declared unfit for employment in such service;

Provided that the State Government may by general or special order remove the disqualification imposed by this clause;

- (e) holds any salaried post or any place of profit in the gift or disposal of the Panchayat;
- (f) has directly or indirectly any share or interest in any contract with, by or on behalf of the Panchayat while owning such share or interest;
- (g) is a leper or is suffering from any bodily or mental defect, infirmity or disease which renders him unfit for work.

12. Panchayat to be body corporate.—Every Panchayat shall be a body corporate by the name specified for the area under sub-section (2) of section 3, having perpetual succession and common seal and shall, subject to any restrictions or conditions imposed by or under this or any other Act, have power to acquire by purchase, gift or otherwise, or to hold, administer and transfer property, both moveable and immoveable, and to enter into any contract, and shall by the said name sue or be sued.

13. Oath of office.—The President, the Vice-President and every other member shall as soon as possible after his election or nomination make in the prescribed manner the prescribed oath or affirmation of his office and unless this is done shall not perform any functions under this Act.

14. Term of office and filling of vacancies.—(1) The term of office of a Panchayat shall be three years from the date of the first general meeting which shall be held after a general election.

(2) In the event of death, resignation, disqualification, disability or removal of a member previous to the expiry of his term of office the vacancy shall be filled up as soon as it conveniently may be by the election or nomination as the case may be of a person thereto who shall hold office so long as the member in whose place he is elected or nominated would have held it if the vacancy had not occurred.

(3) Notwithstanding anything contained in sub-section (1) the term of office of a Panchayat which is wholly nominated or of any member thereof shall be such as shall be determined by the State Government by notification, but shall not exceed three years.

15. Removal of any member of a Panchayat by State Government.—Any member of a Panchayat shall be removable from his office by the State Government for misconduct or neglect or incapacity to perform his duties and the member so removed shall not be eligible for re-election during the remainder of the term of office of the Panchayat.

16. Removal of President or Vice-President by Panchayat.—A President or a Vice-President shall be removable from his office by resolution passed to that effect by the Panchayat provided that two-thirds of the whole number of the members of the Panchayat vote in favour of such resolution.

17. Joint Committees.—(1) Subject to any rules, two or more Panchayats may combine by means of a written instrument to appoint a joint committee consisting of their representatives for the purpose of transacting any business in which they are jointly interested and may—

- (a) delegate to such committee power, on such conditions as they may think proper to impose, to frame any scheme binding on each such Panchayat as to the construction or maintenance of any joint work and as to the power which may be exercised by any such committee in relation to such scheme; and
- (b) frame or modify rules regarding continuance of such committee and the terms of office of members thereof and the method of conducting proceedings and correspondence.

(2) If any divergence of opinion arises between the Panchayats acting under this section, it shall be referred to the Prescribed Authority for decision.

(3) Any Panchayat aggrieved by the decision of a Prescribed Authority may, within such time as may be prescribed, appeal to the State Government.

(4) The State Government may *suo motu* revise any decision made under sub-section (2).

18. Removal of difficulty in the establishment or working of Panchayats.—If in the establishment or working of a Panchayat, any dispute or difficulty arises regarding the interpretation of any provision of this Act or any rule made thereunder or any matter arising out of or relating to such interpretation or any matter not provided in this Act, the same shall be referred to the State Government whose decision thereon shall be final and conclusive.

CHAPTER III

ADMINISTRATION OF PANCHAYAT—ITS POWERS, DUTIES AND FUNCTIONS

19. Meetings and their procedure.—(a) A meeting of a Panchayat shall be held at least once a month.

(b) The Pradhan or Up-Pradhan may, on his own initiative, and shall on the requisition of at least one-third of the members of a Panchayat, call an emergent meeting of the Panchayat in the manner prescribed.

(c) The time and place of the sitting and the procedure at a meeting of the Panchayat shall be in accordance with rules.

20. Resolutions and questions.—A member of a Panchayat may, at any meeting, move any resolution and put questions to the Pradhan or Up-Pradhan on matters connected with the administration of the Panchayat in the manner prescribed.

21. Powers of Pradhan and Up-Pradhan.—The Pradhan and Up-Pradhan shall exercise such executive powers for the purpose of carrying out the provisions of this Act as may be prescribed.

22. Duties and functions.—It shall be the duty of every Panchayat, so far as its funds may allow to make reasonable provision within its jurisdiction, in the manner prescribed, for—

- (a) the construction, repair, maintenance, cleaning and lighting of public streets;
- (b) medical relief;
- (c) sanitation and taking curative and preventive measures to remove and to stop the spread of an epidemic;
- (d) the upkeep, protection and supervision of any buildings or other property which may belong to the Panchayat or which may be transferred to it for management;
- (e) registering births, deaths and marriages and maintaining the register mentioned in section 4;
- (f) the removal of encroachments on public streets, public places and property vested in the Panchayat;
- (g) regulating places for the disposal of the dead bodies of human beings and animals and of other offensive matter;

- (h) the regulation of *melas*, markets and *hats* within its area, except those managed by the State Government;
- (i) the establishment of common grazing grounds and land for the common benefit of the persons residing within its jurisdiction and management and care thereof;
- (j) the construction, repair and maintenance of public wells, tanks and ponds for the supply of water for drinking, washing and bathing purposes, and the regulation of sources of water supply for drinking purposes;
- (k) regulating the construction of a new building or the extension or alteration of any existing building;
- (l) assisting the development of agriculture, commerce and industry;
- (m) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (n) the maintenance of such records relating to cattle census, population census and other statistics as may be prescribed;
- (o) maternity and child welfare;
- (p) allotment of places for storing manure;
- (q) the promotion of co-operative farming;
- (r) the relief of the destitute and the sick;
- (s) the construction and maintenance of public latrines;
- (t) framing programmes of production;
- (u) co-operating and assisting in all government activities of development and village uplift;
- (v) bringing waste land under cultivation;
- (w) arranging for the cultivation of land not cultivated or managed by the owners;
- (x) assisting in the implementation of land reform measures;
- (y) the doing of any other thing the expenditure on which is declared by the State Government to be an appropriate charge on the fund of the Panchayat;
- (z) any other measure of public utility calculated to promote the moral and material well-being or convenience of the villagers as may be resolved by the Panchayat or as may be specified by order in writing by the State Government in this behalf.

23. Discretionary duties and functions.—A Panchayat may also make provision in the prescribed manner within its jurisdiction for—

- (a) planting and maintaining trees at the sides of public streets and in other public places;

- (b) the improved breeding and medical treatment of cattle and prevention of disease in them;
- (c) filling in of insanitary depressions and levelling of land;
- (d) organising, subject to rules, a Village Volunteer Force for watch and ward, for assisting Panchayat and Nyaya Panchayat in the discharge of their functions and for the service of summons and notices issued by them;
- (e) assisting and advising agriculturists in the obtaining of Government loans and in the repayment thereof, in the liquidation of old debts and generally, in the establishment of sound credit system according to law;
- (f) the development of co-operation and establishment of improved seed and implement stores;
- (g) securing minimum standards of cultivation to be observed with a view to increasing production;
- (h) making arrangements for co-operative management of land and other resources according to the terms of the prevailing land management legislation;
- (i) relief against famine or other calamity;
- (j) extension of the *abadi*;
- (k) establishment and maintenance of an *akhara* or club or other place for recreation and games;
- (l) establishment and maintenance of a library or reading room;
- (m) regulating the collection, removal and disposal of manure and sweepings;
- (n) prohibiting or regulating the curing, tanning and dyeing of skins within 220 yards of the *abadi*;
- (o) setting up organisations to promote goodwill and social harmony between different communities;
- (p) public radio sets and gramophones.

24. Power of Panchayat as to public streets, waterways and other matters.—A Panchayat shall have control of all public streets or waterways situated within its jurisdiction, not being a private street or waterway and not being under the control of the State Government or any other authority specified by the State Government and may do all things necessary for the maintenance and repair thereof and may—

- (a) construct new bridges or culverts;
- (b) divert, discontinue or close any public street, culvert or bridge;
- (c) widen, open, enlarge or otherwise improve any public street, culvert or bridge with minimum damage to the neighbouring fields;

- (d) deepen or otherwise improve waterways;
- (e) with the sanction of the Prescribed Authority, undertake small irrigation projects;
- (f) cut any hedge or branch of any tree projecting on a public street;
- (g) notify the setting apart of any public watercourse or tank or well for drinking or culinary purposes, and prohibit the bathing or washing of clothes and animals or the doing of other acts likely to pollute the course, tank or well so set apart:

Provided that without the prior permission of the authority specified in this behalf by order in writing of the State Government nothing shall be done under clause (g) which may affect any canal or canal system.

25. Imposition of compulsory service for public purposes.—(1) Subject to rules, a Panchayat may, by order in writing, call upon persons resident in the territorial jurisdiction of the Panchayat to perform such labour, as it may specify in the order, on works of public utility which, in the opinion of the Panchayat, are likely to benefit persons and which the Panchayat has undertaken to construct, maintain or repair under sections 22, 23 and 24.

(2) Any person who without any sufficient cause, neglects or refuses to perform the labour referred to in sub-section (1) shall be punishable with fine which may extend to fifty rupees.

26. Establishment of hospital or dispensary for a group of Panchayats.—Where a group of neighbouring Panchayats decides to establish and maintain a hospital or dispensary, they may, with the permission of the Prescribed Authority, do so with such assistance as may be provided by the State Government.

27. Assistance to Government.—The Panchayat if so directed by general or special order of the State Government, shall assist it in the performance of its duties within the territorial jurisdiction of such Panchayat.

28. Representation by Panchayat.—The Panchayat may make to the Prescribed Authority any representation concerning the welfare of the persons residing within its jurisdiction.

29. Inquiry into the conduct of certain officials.—(1) On a complaint made by any person against a person who is a Government servant or is otherwise under Government control, about his misconduct in his capacity as such in the area under the control of a Panchayat, the Panchayat concerned may enquire into the matter and report the observations of its inquiry to the officer to whom such person is subordinate.

(2) The officer concerned shall enquire into the report in such manner and take such action thereon as he deems fit and shall inform the Panchayat of the action taken.

(3) Nothing in sub-section (1) shall be construed as empowering the Panchayat to summon the persons described in the said sub-section, or to exercise control over them.

30. Power to contract for collection of taxes and other dues for Government.—A Panchayat may, in respect of any area within its jurisdiction, enter into a contract with the State Government to collect any dues or taxes including land revenue payable to the Government, on being allowed by the State Government such collection charges as may be prescribed.

31. Appointment and powers of sub-committees.—(1) A Panchayat may, for the discharge of its administrative functions, appoint from amongst its members, sub-committees, each consisting of not more than 5 members.

(2) A sub-committee shall exercise such powers as may be delegated to it by the Panchayat and shall be subject to the general control of the Panchayat.

32. Liability for causing loss.—(1) Every member of the Panchayat or any Joint Committee or any other Committee constituted under this Act shall be liable for any loss, waste or improper use of any money or property belonging to the Panchayat, if such loss, waste or improper use is a direct consequence of his neglect or misconduct while acting as a member of the Panchayat, Joint Committee or other Committee and a suit for compensation may be instituted against him by the Panchayat with the previous sanction of the Prescribed Authority.

(2) If the Prescribed Authority sanctions the institution of a suit under sub-section (1) or refuses to grant the sanction, the member concerned, or the Panchayat, as the case may be, may, within thirty days of such sanction or refusal, appeal to the State Government against such sanction or refusal.

(3) The State Government may, on its own initiative institute the suit mentioned in sub-section (1).

CHAPTER IV

ACQUISITION OF LAND, PANCHAYAT FUND AND PROPERTY

33. Power to acquire land.—Where a Panchayat or a number of Panchayats which have combined under the provisions of section 17 or 26 require any land to carry out any purpose of this Act, it or they shall first try to have the land by private negotiation and if the parties concerned fail to arrive at an agreement, such Panchayat or Panchayats may make an application in the prescribed form to the Collector to acquire the land under the provisions of the land acquisition law for the time being in force and the Collector may acquire such land for such Panchayat or Panchayats.

Explanation.—The expression 'land' includes well and benefits arising out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

34. Property vested in the Panchayat.—(1) The State Government may transfer to a Panchayat the ownership or management

or both of any of its public property on such conditions as may be prescribed in this behalf;

Provided that such transfer shall not be made without the consent of the Panchayat.

(2) Any other property situated within the jurisdiction of the Panchayat, which is used by the village communities for common or public purposes, if it does not belong to any person or the State Government, shall vest in the Panchayat.

35. Disposal of claims.—(1) Where any dispute arises as regards the ownership of any property mentioned in sub-section (2) of section 34 between a Panchayat and any person, the Panchayat shall give such person a reasonable opportunity of being heard and then decide whether to treat the said property as the property of the Panchayat.

(2) Any person aggrieved by a decision of the Panchayat under sub-section (1) may within such time as may be prescribed, prefer an appeal to such authority as may be prescribed:

Provided that nothing in this section shall be deemed to affect the right of a party aggrieved by the decision to have recourse to a civil suit.

36. Panchayat Fund.—(1) Every Panchayat shall have a fund which shall be utilised by the Panchayat for meeting charges in connection with its duties under this Act subject to the provisions of the budget passed.

(2) The following shall be credited to the Panchayat Fund:—

- (a) The proceeds of any ~~tax or~~ cess imposed under this Act.
- (b) All sums ordered by a Court to be placed to the credit of the Panchayat Fund.
- (c) The sale-proceeds of all dust, dirt, dung or refuse including the dead bodies of animals collected by the servants of the Panchayat.
- (d) All sums received under section 121.
- (e) The amount received by the Panchayat under the provisions of section 39(1) of the Act.
- (f) Such portion of the rent or other proceeds of Nazul property as the State Government may direct to be placed to the credit of the Panchayat Fund.
- (g) Sums contributed to the Panchayat Fund by any local authority.
- (h) All sums received by way of loan or gift.
- (i) Such sums as may be allotted to the Panchayat Fund by any special or general order of the State Government.
- (j) All sums received by the Panchayat from the State Government under sections 30 and 130(2) or any other law.

- (k) The amount received by the Panchayat under the provisions of section 39(2) of the Act.

(3) Nothing in this section shall affect any obligation of a Panchayat arising from a trust legally imposed upon or accepted by it.

37. Custody of Fund.—All moneys at the credit of the Panchayat Fund shall be kept in the name of the Panchayat in the post office savings Bank or a co-operative Bank, or subject to such terms and conditions as may be prescribed, with a local banker or other person approved by the Prescribed Authority.

38. Grant-in-aid from Panchayat Fund.—No grant-in-aid shall be made out from the Panchayat Fund for any purpose other than those specified in sections 22, 23 and 24 to any person or institution except with the previous sanction of the Prescribed Authority.

39. Financial obligations of the State Government to Panchayats.—
(1) The State Government shall pay to every Panchayat in each financial year a sum equal to 15 per cent. of land revenue realised by it in respect of that Panchayat area.

(2) The State Government may impose and realise a suitable surcharge on land revenue realised from within a Panchayat area and the proceeds of such surcharge during each financial year shall be paid to the Panchayat of that area.

CHAPTER V

TAXES, ACCOUNTS AND BUDGET

40. Taxes, fees, rates or rents, which may be imposed.—(1) Subject to rules and any orders made by the State Government in this behalf, a Panchayat may with the previous sanction of the State Government impose the following taxes, fees, rates or rents, namely:—

- (a) fees on transfer of immovable property;
- (b) a tax on buildings owned by persons, not exceeding such rate as may be prescribed;
- (c) octroi;
- (d) a tax on vehicles except on motor vehicles and vehicles used for the purpose of cultivation;
- (e) a tax on industries;
- (f) fees for the use and occupation of floors, village sites and other similar communal lands or public places or parts thereof;
- (g) a fee on solemnization of marriage, and other entertainments, at such rates as may be prescribed;
- (h) rent from dealers temporarily occupying open grounds or any structure or building belonging to or maintained by the Panchayat;

- (i) fees for the right to expose goods for sale in any market or for use of any building or structure therein;
- (j) fees for the use of slaughter houses maintained by the Panchayat;
- (k) a latrine or conservancy tax payable by the occupier or owner upon private latrines, privies or cesspools or upon premises or compounds cleansed by a Panchayat agency;
- (l) fees for the use of *sarais*, *dharamshalas* and restshed maintained by the Panchayat;
- (m) a water rate where water is supplied by the Panchayat;
- (n) a lighting rate where the lighting of public streets and places and buildings is undertaken by the Panchayat;
- (o) a drainage fee where a system of drainage has been introduced by the Panchayat;
- (p) a pilgrim tax at places of worship and pilgrimage within the village;
- (q) a tax on trade, callings and professions not exceeding such rates as may be prescribed;
- (r) a tax on firewood and cattle at such rate as may be prescribed; and
- (s) any other tax which the Legislature of the State has power to impose.

(2) The taxes under sub-section (1) shall be imposed, assessed and realised in such manner and paid or realised at such times, as may be prescribed.

41. State Government to get taxes imposed.—(1) The State Government may, by notification, require any Panchayat to impose, subject to the provisions of sub-section (2) of section 40, any of the taxes specified in sub-section (1) of the said section 40 from such date and at such rates as may be specified in the notification.

(2) While any notification under sub-section (1) is in force, the Panchayat shall proceed to impose the tax or taxes therein specified as if a resolution of the Panchayat had been passed for the imposition thereof and it shall not be lawful for it to abandon, modify or abolish any tax so imposed:

Provided that the State Government may at any time cancel any such requisition or modify it in any respect:

Provided further that when any tax has been imposed upon the requisition of the State Government under sub-section (1), any other tax of a like nature previously imposed by the Panchayat without such requisition shall cease to be levied and realised from the date from which the tax imposed upon the said requisition is to be levied and realised.

42. Commutation by labour.—The Panchayat may, with the consent of the person from whom any tax, toll, fee or rate under sections 40 and 41 is leviable, commute the payment into a contribution of labour not exceeding 30 days labour in a year at such intervals, for such period of time and on such conditions, as may be prescribed.

43. Power to exempt persons from payment, etc.—The State Government may make rules subject to which a Panchayat may exempt any person or class of persons from a tax, toll, fee or rate payable under this Act.

44. Recovery of arrears.—Any arrears of a cess, tax, toll, fee or rate payable under this Act shall be recoverable by the Collector as if they were arrears of land revenue.

45. Cancellation or suspension of taxation.—Any cess, tax, toll, fee or rate imposed under sections 40 and 41 may at any time be cancelled or thereafter re-imposed by the State Government and the State Government may at any time suspend or thereafter re-impose the collection thereof:

Provided that no arrears shall be recovered while the collection is suspended.

46. Realisation of dues and accounts.—The Panchayat shall arrange for the realisation of the taxes and dues, the custody of its funds and the maintenance of its accounts, in such manner as may be prescribed.

47. Audit.—The accounts of every Panchayat shall be audited every year in such manner as may be prescribed.

48. Preparation of budget, report and accounts.—(1) (a) Every Panchayat shall prepare a budget estimate of its income and expenditure for the year commencing on the 1st day of April and publish it in the prescribed manner for inviting comments and suggestions from persons residing in the Panchayat area before such date as may be prescribed.

(b) Within one week of the expiry of the time fixed for inviting suggestions and comments as aforesaid, the Pradhan shall call an extraordinary meeting of the Panchayat to consider the suggestions and comments, if any, and to finalise and pass the budget with or without any modification.

(c) Subject to such rules as may be made in this behalf, the budget shall take effect after it has been approved by the Prescribed Authority.

(d) A Panchayat may incur any expenditure under any head of the budget after it has taken effect in excess of the amount provided for under that head, provided that the excess expenditure to be incurred is met from out of the total amount of the budget and the previous approval of the Prescribed Authority to the proposal is also obtained.

(2) Every Panchayat shall prepare a report including the account of its actual receipts and expenditure, for the half year ending on 30th September and 31st March respectively of every year,

and such report shall be open for inspection by any person residing in the Panchayat area, and a copy thereof shall be sent to the Prescribed Authority.

CHAPTER VI

NYAYA PANCHAYAT

49. Circle for Nyaya Panchayat.—The Prescribed Authority shall divide the State into circles, each circle comprising as many Panchayat areas as may be expedient, and establish a Nyaya Panchayat for each such circle:

Provided that the Panchayat areas within each circle shall, as far as possible, be contiguous.

50. Constitution of Nyaya Panchayat.—There shall be appointed by the Collector, on the recommendation of the District Judge, three Panches of prescribed qualifications from every Panchayat in a circle to act as Panches in the Nyaya Panchayat of that circle. The Panches so appointed from amongst all the Panchayats in a circle shall form a panel.

51. Appointment of Sarpanch.—The Collector on the recommendation of the District Judge shall appoint a person from amongst the Panches appointed under section 50, who is able to record proceedings, to be the Sarpanch of the Nyaya Panchayat.

52. Term of office of Sarpanch or Panch.—The term of office of the Sarpanch or Panch of a Nyaya Panchayat shall be co-extensive with the term of his office as member of the Panchayat:

Provided that the Sarpanch or Panch of a Nyaya Panchayat shall continue to hold office until his successor enters upon his office.

53. Oath of office.—Every Panch or Sarpanch appointed under section 50 or 51 shall, as soon as possible after his appointment, take oath of office in the manner prescribed.

54. Resignation.—A Panch or Sarpanch may submit the resignation of his office to the Collector.

55. Formation of Bench.—(1) The Sarpanch shall, for the trial of every case, suit or proceeding form a Bench of five Panches from the panel:

Provided that at least one of the Panches in the Bench shall be a person who is able to record evidence and proceedings.

(2) Every such Bench shall include one Panch who resides in the Panchayat area in which the plaintiff of a suit or the complainant of a case resides and likewise one Panch residing in the Panchayat area in which the defendant or the accused resides, and three Panches residing in a Panchayat area in which neither party resides.

(3) No Panch or Sarpanch shall take part in any case or suit to which he or any of his near relations, employers, employees or partners in business, is a party, or in which any of them may be personally interested.

(4) Notwithstanding anything contained in this section, the State Government may by rules prescribe the constitution of special Benches for determining any dispute arising between any parties or Panchayats of different circles or for any other purpose.

56. Filling of casual vacancies.—If there is a vacancy of a Panch in the panel by reason of his death, removal or resignation, it shall be filled for the unexpired portion of his term in the manner provided in section 50 and if the Panch vacating the office was a Sarpanch he shall be appointed in the manner provided in section 51.

57. Territorial jurisdiction.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every case instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the circle in which the offence is committed.

(2) Notwithstanding anything contained in the Code of Civil Procedure, 1908, every suit instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the circle in which the defendant or any of the defendants, where there are more than one, ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose.

58. Extent of criminal jurisdiction.—(1) Offences specified in Schedule I to this Act, if committed within the jurisdiction of a Nyaya Panchayat, as well as abetments of, and attempts to commit, such offences, shall be cognizable by such Nyaya Panchayat:

Provided that no Nyaya Panchayat shall take cognizance of any case in which the Police have taken cognizance and have sent the accused to a Magistrate under sub-section (1) of section 170 of the Code of Criminal Procedure, 1898.

(2) No Nyaya Panchayat shall take cognizance of any offence except upon complaint written or oral and against the person named by the complainant.

(3) The State Government may, on the recommendation of the District Magistrate or otherwise, for reasons to be recorded in writing, withdraw from a Nyaya Panchayat the power to take cognizance of all or any of the offences specified in Schedule I.

(4) The State Government may, on the recommendation of the District Magistrate or otherwise, by notification, empower a Nyaya Panchayat to take cognizance of offences, other than those specified in Schedule I, under the Indian Penal Code, 1860, subject to such restrictions and conditions as may be specified in the notification.

59. Authority to advise security proceedings.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898, whenever the Sarpanch of a Nyaya Panchayat is satisfied from his own knowledge or upon complaint or upon advice by any other Panch, about the necessity of taking action under Chapters VIII, XI or XII of the said Code against any person or persons, he shall forthwith inform the First Class Magistrate having jurisdiction in the area, and the Magistrate upon such information shall make interim orders within 3 days from the receipt of such information and shall further proceed in the matter expeditiously according to law.

60. Nyaya Panchayat not to inflict sentence of imprisonment.—No Nyaya Panchayat shall inflict a substantive sentence of imprisonment.

61. Exclusion of jurisdiction of other courts.—No court shall take cognizance of any case, suit or proceeding which is cognizable under this Act by a Nyaya Panchayat unless an order has been passed by a Sub-Divisional Magistrate or a Sub-Judge under section 95.

62. Transfer of criminal proceedings to Nyaya Panchayat in certain cases.—At any stage of the proceedings in a criminal case pending before a Magistrate, if it appears to him that the case is triable by a Nyaya Panchayat, he shall at once transfer the case to the Nyaya Panchayat which shall try the case *de novo*.

63. Summary dismissal of complaint.—A Nyaya Panchayat may dismiss any complaint if, after examining the complainant and taking such evidence as he produces, it is satisfied that the complaint is frivolous, vexatious or untrue.

64. Return of complaint.—If at any time it appears to a Nyaya Panchayat—

- (a) that it has no jurisdiction to try any case before it, or
- (b) that the offence is one for which it cannot award adequate punishment, or
- (c) that the case is of such nature or complexity that it should be tried by a regular court, it shall return the complaint to the complainant directing him in writing to file it before the Sub-Divisional Magistrate, having jurisdiction to try such case.

65. Certain persons not to be tried by Nyaya Panchayats.—No Nyaya Panchayat shall take cognizance of any offence in which the accused—

- (a) has been previously convicted of an offence punishable with imprisonment for a term of three years or more; or
- (b) has been previously fined for theft by any Nyaya Panchayat; or
- (c) is registered as a habitual offender under the Madras Habitual Offenders Act, 1948 (Madras Act VI of 1948), as applied to the State of Ajmer; or
- (d) has been bound over to be of good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1898; or
- (e) has been previously convicted for gambling; or
- (f) is a Panch of a Nyaya Panchayat; or
- (g) is a public servant other than a village watchman.

66. Compensation to complainants.—In imposing any fine the Nyaya Panchayat may order the whole or any portion of the fine recovered from the accused to be paid to the complainant—

- (a) for defraying the expenses properly incurred in the case by the complainant, or
- (b) as compensation for any material damage or loss caused by the offence committed.

67. Compensation to the accused.—If a Nyaya Panchayat is satisfied after inquiry that a case brought before it was false, frivolous or vexatious, it may order the complainant to pay the accused such compensation not exceeding twenty rupees as it thinks fit.

68. Inquiry in cases forwarded by Magistrates.—A Magistrate may direct an inquiry to be made under section 202 of the Code of Criminal Procedure, 1898, by a Nyaya Panchayat in any case in which the offence is committed within the territorial jurisdiction of such Nyaya Panchayat, and the Nyaya Panchayat shall enquire into the case and submit its report to the said Magistrate.

69. Extent of civil jurisdiction.—The jurisdiction of a Nyaya Panchayat shall extend to any suit of the following description if its value does not exceed one hundred rupees:—

- (a) a suit for money due on contract other than a contract in respect of immovable property;
- (b) a suit for the recovery of movable property or for the value thereof;
- (c) a suit for compensation for wrongfully taking or injuring movable property; and
- (d) a suit for damage caused by cattle trespass.

70. Extension of jurisdiction by agreement of parties.—Parties to a suit may, by a written agreement, refer any suit of the nature mentioned in section 69, to a Nyaya Panchayat for decision irrespective of the value of the suit and the Nyaya Panchayat shall, subject to rules, determine and dispose of such suit under this Act.

71. Special jurisdiction in matters compromised etc.—Notwithstanding anything contained in this Act or in any other law for the time being in force, it shall be lawful for a Nyaya Panchayat to decide any civil dispute arising in its local area and not pending in any court in accordance with any settlement, compromise or on oath agreed upon by the parties and likewise decide a case if compoundable.

72. Exclusion of suits from jurisdiction of Nyaya Panchayat.—A Nyaya Panchayat shall have no jurisdiction to take cognizance of the following suits:—

- (1) a suit for a balance of partnership account, unless the balance has been struck by the parties or their agents;
- (2) a suit for a share or a part thereof under an intestacy or for a legacy or a part thereof under a will;
- (3) a suit by or against the Government or a public servant for acts done in his official capacity;
- (4) a suit by or against a minor or a person of unsound mind;

- (5) a suit cognizable by a revenue court under the Ajmer Land and Revenue Regulation, 1877 (II of 1877) or the Ajmer Tenancy and Land Records Act, 1950 (XLII of 1950):

Provided that nothing in sub-clause (5) shall be construed as preventing the State Government from investing such Panchayat with powers to hear and dispose of suits under section 180(b) of the Ajmer Tenancy and Land Records Act, 1950 (XLII of 1950).

73. Suit to include the whole claim.—(1) Every suit instituted before a Nyaya Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Nyaya Panchayat.

(2) If a plaintiff omits to sue in respect of or relinquishes any portion of it, he shall not afterwards sue in respect of the portions so omitted or relinquished.

74. Limitation.—Every suit instituted before a Nyaya Panchayat after the period of limitation prescribed therefor in Schedule II to this Act shall be dismissed even though limitation has not been set up as a defence.

75. Effect of decision of Nyaya Panchayat.—The decision of a Nyaya Panchayat on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided.

76. Provisions relating to *res judicata* and cases pending in other courts.—(1) No Nyaya Panchayat shall try any suit or issue in respect of any matter which is pending for decision in or has been heard or decided by a court of competent jurisdiction, in a former suit between the same parties under whom they or any of them claim.

(2) Where a case is pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence, no Nyaya Panchayat shall take cognizance of any such offence or on the same facts of any other offence of which the accused might have been charged or convicted.

77. Concurrent jurisdiction.—Where a case or suit is maintainable in more than one Nyaya Panchayat, the plaintiff or the applicant or the complainant, as the case may be, may bring the case or suit in any one of such Nyaya Panchayats. Any dispute regarding jurisdiction shall be decided by the Sub-Divisional Magistrate or the Sub-Judge having jurisdiction, as the case may be.

78. Institution of suits and cases.—Any person who wishes to institute a suit or case under this Act before a Nyaya Panchayat may make an application orally or in writing to the Sarpanch of the Nyaya Panchayat or in the case of his absence from the circle, to such other Panch as may have been appointed in this behalf and shall at the same time pay the prescribed fee. The Court-fees Act, 1870 (VII of 1870), shall not apply to a Nyaya Panchayat, except as may be prescribed. In every suit, the plaintiff shall state its value.

79. Substance of the application to be recorded.—(1) Where a suit or case is instituted orally, the Sarpanch or Panch receiving the application shall record in writing without delay, the prescribed particulars and the signature or thumb impression of the applicant shall be taken thereon.

(2) The Sarpanch or in his absence the Panch mentioned in section 78 shall thereupon appoint a Bench of the Nyaya Panchayat under section 55 and refer the said application to that Bench for disposal and shall also fix a date for the first hearing of the application before the said Bench and give notice of the said date to the applicant and to the members thereof.

80. Conduct of proceedings for disposal of suits and cases.—(1) Every suit or case instituted in accordance with the provisions of section 79 shall be brought before the Bench of the Nyaya Panchayat on the date fixed and the Bench shall unless the Sarpanch is a member of it, choose one of its members to be the Chairman of that Bench who shall conduct the proceedings.

(2) It shall be the duty of the Nyaya Panchayat to dispose of a suit or case as early as possible and adjournments shall be granted only when absolutely necessary.

81. Provisions relating to evidence.—A Nyaya Panchayat shall receive such evidence in a suit or case as the parties may adduce and may call for such further evidence as, in its opinion, may be necessary for the determination of the points at issue. It shall be the duty of a Nyaya Panchayat to ascertain the facts of every suit or case before it by every lawful means in its power and thereafter to make such decree or order, with or without costs, as it may deem just and legal. It may make local investigation in the village to which the dispute relates. It shall follow the procedure prescribed by or under this Act. The Code of Civil Procedure, 1908, the Code of Criminal Procedure, 1898, the Indian Evidence Act, 1872, and the Indian Limitation Act, 1908, shall not apply to any suit or case in a Nyaya Panchayat, except as provided in this Act or as may be prescribed.

82. Ex-parte proceedings.—(1) If the plaintiff, the complainant or the applicant fails to appear after having been informed of the time and place fixed for hearing, the Nyaya Panchayat may dismiss the suit or case or pass such order as it may deem fit.

(2) The Nyaya Panchayat may hear and decide the suit or proceeding in the absence of the defendant or opposite party if the summons has been served upon him or service has been effected on him in the manner prescribed in the Code of Civil Procedure, 1908.

83. Issue of summons and production of documents.—A Nyaya Panchayat may, if it considers the evidence of, or the production of a document by, any person necessary in a suit or case, issue and cause to be served in the prescribed manner, a summons on such person to compel his attendance or to produce or cause the production of such document, and such person shall be bound to comply with the direction contained in the summons.

84. Summons to be in a prescribed form.—After an application is made under section 78, a Nyaya Panchayat shall, unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in the prescribed form to be served in the prescribed manner on the defendant or the accused person or an opposite party requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant or the applicant to attend and produce his evidence at such time and place.

85. Penalty for failing to appear before Nyaya Panchayat.—If any person who is summoned by a Nyaya Panchayat by a written order to appear to give evidence or to produce any document before it wilfully disobeys such summons or notice or order, the Nyaya Panchayat may make a complaint to the Magistrate having jurisdiction and the said person shall be punishable with fine which may extend to twenty-five rupees:

Provided that a woman shall not be compelled to appear in person before the Nyaya Panchayat, but may be examined on commission in the manner prescribed:

Provided further that if a document is produced in obedience to a summons issued under this section, the Nyaya Panchayat shall cause the document to be copied and mark the copy after comparing with the original to be true copy, and return the original document to the person who produced it.

86. Dismissal of suit, etc.—A Nyaya Panchayat may dismiss any suit after examining the plaintiff or the applicant if it is satisfied that the suit or proceeding is frivolous, vexatious or false.

87. Payment or adjustment of decree to be recorded.—If on the application of the decree-holder or the judgment-debtor the Nyaya Panchayat, which passed the decree, finds, after inquiry, that the decree has been satisfied wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register.

88. Execution of decree.—(1) A decree or order passed by a Nyaya Panchayat shall be executed by it in such manner as may be prescribed. If the defendant's property is situated outside the jurisdiction of the Nyaya Panchayat passing such decree or order, it may transfer the decree or order for execution in the prescribed manner to the Nyaya Panchayat within whose jurisdiction the property may be situated, and, if there be no such Nyaya Panchayat, then to the Court of the Sub-Judge within whose jurisdiction it may be situated.

(2) If a Nyaya Panchayat finds any difficulty in executing a decree, it may forward the decree to the Sub-Judge, and the Sub-Judge shall then execute the decree as if it were a decree passed by him.

89. Non-appearance of accused.—(1) If after the service of the summons provided for in section 83 the accused fails to attend and the majority of the Nyaya Panchayat trying the case is of opinion that he is evading attendance, the Nyaya Panchayat may apply to the Sub-Divisional Magistrate who may compel his appearance

before the Nyaya Panchayat as if the Sub-Divisional Magistrate were a Magistrate trying the case and the Nyaya Panchayat were his court.

(2) When any accused person has been under sub-section (1) compelled to appear before a Nyaya Panchayat, it shall forthwith take his statement, and thereafter his attendance shall not be deemed to be compulsory.

90. Recovery of fine.—The fine imposed in a case by a Nyaya Panchayat shall be recoverable in the manner provided in section 386 of the Code of Criminal Procedure, 1898, but if the Nyaya Panchayat finds any difficulty in its recovery, it may request the Sub-Divisional Magistrate within whose jurisdiction the Nyaya Panchayat lies to recover it and he shall recover it as if it had been imposed by him.

91. Nyaya Panchayat not to revise or alter its decision.—(1) Except as provided in sub-section (2) or to correct a clerical error, a Nyaya Panchayat shall have no power to cancel, revise or alter any decree, order or judgment passed by it.

(2) A Nyaya Panchayat may, for sufficient reasons to be recorded in writing, on application made within one month of the date of the decree or order or knowledge thereof, in case personal service of summons has not been effected, set aside an *ex-parte* order and hear the suit or proceeding which had been decided *ex-parte*.

92. No legal practitioner to appear.—No legal practitioner shall appear, plead or act, on behalf of any party in any suit, case, proceeding or appeal before a Nyaya Panchayat.

93. Appearance in person or by representative.—Subject to the provisions of section 97, any party to a suit or case may appear before a Nyaya Panchayat either in person or by such person (not being a tout or petition writer or clerk to a legal practitioner) authorised by him as the Nyaya Panchayat may admit as a fit person to represent him:

Provided that such authorised person shall not plead or act for the person on whose behalf he appears unless the person on whose behalf he appears is infirm or disabled.

94. Majority to prevail.—In the event of any disagreement between the Panches the opinion of the majority shall prevail in the manner prescribed.

95. Revisional powers of Sub-Divisional Magistrate and Sub-Judge over Nyaya Panchayat.—(1) If there is a miscarriage of justice or if there is an apprehension of miscarriage of justice in any case or suit, the Sub-Divisional Magistrate having jurisdiction in respect of any case and the Sub-Judge having jurisdiction in respect of any suit may, on the application of any party or on his own motion, at any time in a pending case or suit, as the case may be, and within sixty days from the date of a decree or order,

call for the record of the case or suit, as the case may be, from the Nyaya Panchayat, and may for reasons to be recorded in writing—

- (a) cancel the jurisdiction of the Nyaya Panchayat in any suit or case, or
- (b) quash any decree or order passed by the Nyaya Panchayat at any stage.

(2) When an order has been passed by the Sub-Divisional Magistrate under sub-section (1) in respect of any case, trial or complaint or otherwise in respect of the same offence, it may be started in the Court of the Magistrate having jurisdiction to try the case.

(3) When an order has been passed by a Sub-Judge under sub-section (1) in respect of any suit, the plaintiff may institute a suit on the same cause of action and for the same relief in the competent Court and the period from the date of the institution of the suit before the Nyaya Panchayat to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(4) Except as aforesaid, a decree or order passed by a Nyaya Panchayat in any suit, case or proceeding under this Act shall be final and shall not be open to revision or appeal in any Court.

(5) If any application under sub-section (1) is frivolous, the opposite party may be awarded compensation upto ten rupees by the Sub-Divisional Magistrate or Sub-Judge, as the case may be.

CHAPTER VII

EXTERNAL CONTROL AND APPEALS

96. Inspection.—The State Government may—

- (a) cause to be inspected any immovable property owned, used or occupied by a Panchayat or a Joint Committee, or any work in progress under the direction of such Panchayat or Joint Committee;
- (b) by an order in writing call for and inspect a book or document in the possession or under the control of a Panchayat or a Joint Committee;
- (c) by an order in writing require a Panchayat or Joint Committee to furnish such statement, report or copies of documents, relating to the proceedings or duties of the Panchayat or such committee as it thinks fit;
- (d) record in writing for the consideration of a Panchayat or Joint Committee any observation which it thinks proper in regard to the proceedings or duties of such Panchayat or Joint Committee.

97. Power of inquiry.—The State Government may institute any inquiry in respect of any matter relating to a Panchayat or Nyaya Panchayat and may take such action as it may deem proper.

98. Dissolution.—(1) The State Government may dissolve a Panchayat, Joint Committee or Nyaya Panchayat if in its opinion formed after due inquiry under section 97, such Panchayat, Joint Committee or Nyaya Panchayat has continuously exceeded or abused or failed to perform the duties imposed by this Act or any rule made thereunder.

(2) When a Panchayat, Joint Committee or Nyaya Panchayat is dissolved, it shall be reconstituted within a reasonable time in the manner prescribed in this Act or in the rules made thereunder.

99. Vacation of seats and removal of members, Panches etc.—(1) If any member of a Panchayat or a Panch or Sarpanch who is not qualified for election, nomination or appointment as such under this Act, is elected, nominated or appointed to a Panchayat or Nyaya Panchayat, as the case may be, or if any member of a Panchayat or a Panch or Sarpanch after having been elected, nominated or appointed as aforesaid, becomes disqualified during the term of his office as such, his seat shall be declared by the State Government, after giving him an opportunity of being heard, to have become vacant.

(2) If any member of a Panchayat or a Panch or Sarpanch during the term of his office, absents himself from five consecutive meetings or sittings of the Panchayat or Nyaya Panchayat, as the case may be, in spite of notice, without giving information in writing to the Panchayat or Nyaya Panchayat, he shall thereupon cease to be such member, Panch or Sarpanch and his seat shall become vacant.

(3) If any member of a Panchayat fails to make the prescribed oath or affirmation of his office without sufficient reason within a week of his entering upon his office, his seat shall be declared by the State Government to have become vacant.

(4) The State Government may by order in writing and after making such inquiry as may be deemed necessary and after giving him an opportunity of being heard, remove any member of a Panchayat or a Panch or Sarpanch, who refuses to act or becomes incapable of acting as such.

(5) The decision of the State Government on any matter arising under this section shall be final and shall not be liable to be questioned in any court of law.

100. Prohibition of certain proceedings.—(1) The Prescribed Authority or any other officer specially empowered in this behalf by the State Government on information received or on his own initiative may, by order in writing, prohibit the execution or further execution of a resolution or order passed or made under this or any other enactment by a Panchayat or Joint Committee, or any officer or servant thereof, if in its or his opinion such resolution or order is of such a nature as to cause or likely to cause obstruction, annoyance or injury to the public or to any class or body of persons lawfully employed, or danger to human life, health or safety or riot or affray. Such authority or officer may also prohibit the doing

or continuance by any person of any act in pursuance of or under cover of such resolution or order.

(2) Where an order is made under sub-section (1), a copy thereof with a statement of the reasons for making it shall forthwith be forwarded by the Prescribed Authority or the aforesaid officer to the State Government which may, after calling for an explanation from the Panchayat, Joint Committee or the officer or servant thereof and considering the explanation, if any, made by it or him, rescind, modify or confirm the order.

(3) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1), it shall be the duty of the Panchayat or the Joint Committee or any officer or servant thereof, if so required by the authority making such order, to take any action which it would have been entitled to take, if the resolution or order had never been made or passed and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order of which the execution or further execution is prohibited.

101. State Government to be the chief controlling authority and delegation of its powers.—(1) The State Government shall be the chief controlling authority in respect of all matters relating to the administration of Panchayats.

(2) The State Government may, by notification, delegate all or any of its powers under this Act to any officer or authority subordinate to it subject to such conditions and restrictions as it may deem fit to impose.

102. Appeals.—(1) Any person aggrieved by an order or direction made by a Panchayat under this Act or under any rule or bye-law made thereunder may, unless otherwise prescribed, within 30 days from the date of such order or direction exclusive of the time requisite for obtaining copy thereof, appeal to the Prescribed Authority which may vary, set aside or confirm the said order or direction and may also award costs to or against, the person filing the appeal.

(2) The Prescribed Authority may, if it thinks fit, extend the period allowed by sub-section (1) for appeal.

(3) The decision of the Prescribed Authority under sub-section (1) shall be final and shall not be questioned in any court of law.

103. Suspension of prosecution in certain cases.—When an appeal has been filed against an order or direction under section 102, any proceedings to enforce such order or direction and any prosecution for the breach thereof may, by order of the Prescribed Authority, be suspended pending decision on the appeal and, if such order or direction is set aside on appeal, disobedience thereof shall not be deemed to be an offence.

CHAPTER VIII

PENALTIES

104. Penalties for offences under Schedule I.—The following are the maximum fines which may be inflicted by a Nyaya Panchayat in respect of offences specified in Schedule I:—

- (a) in respect of an offence under the Indian Penal Code, 1860, not exceeding fifty rupees;
- (b) in respect of offences under other Acts, not exceeding fifty rupees subject to the maximum permissible under such Acts:

Provided that no imprisonment shall be awarded in default of payment of fine:

Provided further that subject to as aforesaid the State Government may, by notification, increase the limit of fifty rupees to one hundred rupees in respect of Nyaya Panchayats generally or of any Nyaya Panchayat.

105. Penalty for contravention of the provisions of the Act.—Whoever contravenes any provision of this Act shall be punishable, unless otherwise prescribed, with fine which may extend to ten rupees, and when the contravention is a continuing one, with a further fine which may extend to one rupee for every day after date of the first conviction during which an offender is proved to have persisted in the offence.

106. Penalty for contravention of rules and bye-laws.—In making a rule the State Government may, and in making a bye-law the Panchayat with the sanction of the Prescribed Authority may, direct that a contravention of it shall be punishable with fine which may extend to ten rupees, and when the contravention is a continuing one, with a further fine which may extend to one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

107. Penalty for tampering with Panchayat property.—(1) Whoever removes, displaces or makes an alteration in or otherwise interferes with any pavement, gutter or other material of a public street or any fence, wall or posts thereof or a lamp post or bracket, direction post, standpost, hydrant or other such property of the Panchayat without the written sanction of the Panchayat or other lawful authority shall be punishable with fine which may extend to twenty rupees.

(2) If through any act, neglect or default on his part, a person has incurred a penalty imposed by sub-section (1) and has caused any damage to the property of a Panchayat the said person shall be liable to make good such damage as well as to pay such penalty, and the damage may be recovered from the offender in the prescribed manner.

108. Penalty for evasion of taxes etc.—Any person evading the payment of any tax, toll, fee or rate shall be punishable with fine which may extend to ten rupees.

109. Penalty for obstruction.—Whoever wilfully obstructs a Panchayat or any member, officer or servant thereof or any person authorised by the Panchayat in the exercise of any power under this Act shall be punishable with fine which may extend to fifty rupees.

110. Disobedience to notice issued.—If a notice has been given to a person under the provisions of this Act or of any rule or bye-law made thereunder requiring him to execute a work in respect of any property, movable or immovable, public or private or to provide or do or refrain from doing anything within a time specified in the notice and such person fails to comply with the notice, then—

- (a) the Panchayat may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person in the prescribed manner;
- (b) such person shall also be liable on conviction before a Magistrate to a fine which may extend to ten rupees, and in the case of a continuing contravention, to a further fine which may extend to one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

111. Penalty for juvenile offender.—(1) A Nyaya Panchayat may, instead of sentencing to fine a juvenile offender, that is to say, an offender who was on the date of commission of the offence not over 17 years of age—

(a) discharge him after due admonition, or

(b) require his father or guardian to execute within such time as the Nyaya Panchayat may fix, a bond with or without sureties, for an amount not exceeding fifty rupees, binding himself to prevent such juvenile offender from committing any of the offences referred to in Schedule I for any period not exceeding twelve months.

(2) The amount of such bond, if forfeited, shall be recoverable by the Nyaya Panchayat as if it were a fine imposed under this Act.

112. Penalty for first offender.—(1) When a Nyaya Panchayat convicts a person, other than a juvenile offender referred to in section 111 against whom no previous conviction is proved, it may, if it considers his release on probation of good conduct expedient, require him to execute within such time as it may fix a bond for a sum not exceeding fifty rupees, with or without sureties, binding himself not to commit any offence referred to in Schedule I for a period not exceeding twelve months.

(2) The amount of such bond, if forfeited shall be recoverable by the Nyaya Panchayat as if it were a fine imposed under this Act.

CHAPTER IX

RULES AND BYE-LAWS

113. Power of State Government to make rules.—(1) The State Government may, subject to the condition of previous publication, by notification, make rules consistent with this Act to carry out its purposes.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:—

- (i) any matter for which power to make provision is conferred expressly or by implication on the State Government by this Act;
- (ii) the establishment of Panchayats and Nyaya Panchayats;
- (iii) the time and place of the meetings of Panchayats and Nyaya Panchayats, and the manner of convening meetings and giving notice thereof;
- (iv) the conduct of proceedings including the asking of questions by members at meetings and the adjournment of meetings and the maintenance of minute-books of meetings;
- (v) the establishment of committees and the determination of all matters relating to the constitution and procedure of such committees;
- (vi) the suspension and removal of office-bearers;
- (vii) the records and registers that shall be maintained by Panchayats and Nyaya Panchayats and the form in which they are to be maintained;
- (viii) the action to be taken on the occurrence of a vacancy in the Panchayat, Joint Committee, any other committee and Nyaya Panchayat;
- (ix) the authority by which disputes in relation to appointments to Panchayat, Joint Committee, any other committee or Nyaya Panchayat may be decided and the procedure to be followed therein;
- (x) the amount and nature of security to be furnished by a servant of the Panchayat from whom it is deemed expedient to require security;
- (xi) the appointment, qualifications, conditions of service, discharge, removal, dismissal and any other mode of punishment of the servants of Panchayats and their right of appeal;
- (xii) the rules and regulations of gratuity for the servants of Panchayats;
- (xiii) the establishment, administration and control of libraries, reading rooms, dispensaries entrusted to a Joint Committee, the construction and repairs of buildings connected therewith and the supply of medicines and

- medical assistance to the poor inhabitants of any Panchayat area;
- (xiv) the discovery, removal and destruction of water hyacinth on any land, premises or water, the construction of fences and barriers for checking its movements and the cost incurred in carrying out such work;
 - (xv) action in regard to sanitation, conservancy, drainage, buildings, public streets and water supply and the prohibition of public nuisances;
 - (xvi) the framing of budgets and ear-marking funds for specific purposes;
 - (xvii) the returns to be submitted by Panchayats and Nyaya Panchayats, the form in which they are to be submitted, and the authorities to which, and the time within which they are to be submitted;
 - (xviii) the levy of taxes and fees, the maximum rates upto which such taxes and fees may be levied, the authority by which, and the manner in which, the taxes may be assessed and the authority to which an appeal from an assessment order may be made;
 - (xix) the method and time of payment of taxes and other dues, the procedure of recovery and the authority whose assistance may be taken by Panchayats in the recovery of taxes and dues;
 - (xx) the method of keeping accounts by Panchayats;
 - (xxi) the maintenance of Nazul land as defined by or under the authority of any law for the time being in force, and of public buildings;
 - (xxii) the formalities to be observed when transferring any property and the manner in which a deed of contract may be executed by a Panchayat;
 - (xxiii) the powers of auditors, and inspecting and superintending authorities to hold inquiries, summoning and examining witnesses, compelling the production of documents and all other matters connected with audit inspection and superintendence;
 - (xxiv) the issue and service of summons, notices and other processes of Nyaya Panchayats and the issue and service of notices by Panchayats;
 - (xxv) the transfer by a Nyaya Panchayat of summons and other processes to any other Nyaya Panchayat or any Court for service;
 - (xxvi) the fees to be levied by Nyaya Panchayats for the institution of suits and cases, the issue of processes, and the obtaining of copies of documents or records;
 - (xxvii) the court-fees and other fees payable where a Nyaya Panchayat with the consent of parties entertains a suit which is otherwise beyond its jurisdiction;

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- (xxviii) the procedure for the execution of decrees, orders and sentences passed by Nyaya Panchayats;
 - (xxix) the allotment by Panchayats of funds for the performance by Nyaya Panchayats of their duties, under this Act and the extent to which fees may be appropriated by Panchayats;
 - (xxx) the powers that may be exercised by any Prescribed Authority in the discharge of its obligations under this Act and the manner in which such powers may be exercised;
 - (xxxi) the procedure to be observed in the making of bye-laws by the Prescribed Authority for Panchayats or by Panchayats;
 - (xxxii) the printing of the prescribed forms and registers;
 - (xxxiii) the submission for approval of plans, designs, specifications and estimates;
 - (xxxiv) the duties, powers and functions of the Village Volunteer Force;
 - (xxxv) the submission of reports by Panchayats and their review;
 - (xxxvi) the persons, other than members of Panchayats, who may be present in an advisory capacity at the meetings of Panchayats;
 - (xxxvii) the channel of correspondence between a Panchayat and other authorities;
 - (xxxviii) the disposal of assets and liabilities of a Panchayat on its abolition;
 - (xxxix) the action to be taken on the inclusion of the whole or part of the local area of any Panchayat in any municipality or cantonment, and the manner in which the assets and liabilities of the Panchayat may be disposed of in such circumstances;
 - (xl) the conditions subject to which the whole or any part of the sums due to Panchayats may be written off as irrecoverable and the whole or any part of a fee may be remitted;
 - (xli) the regulation of the election of the members of the Panchayat and the adequate representation of the Scheduled Castes and Scheduled Tribes;
 - (xlii) the manner in which oath or affirmation shall be taken by the members of a Panchayat; and
 - (xliii) generally the guidance of Panchayats, Nyaya Panchayats, Joint Committees, other committees, servants of the State Government and other authorities, in matters connected with the carrying out of the provisions of this Act.

(3) All rules made under this section shall be laid for not less than seven days before the Legislative Assembly of the State, as soon as possible, after they are made and shall be subject to such modifications as the said Assembly may make during the session in which they are so laid or the session immediately following.

114. Powers of Prescribed Authority to frame bye-laws.—The Prescribed Authority may, and when required by the Government shall, subject to the condition of previous publication by notification, make bye-laws for a Panchayat consistent with this Act and the rules made thereunder for the purpose of promoting or maintaining the health, safety and convenience of persons residing within a Panchayat area, and for the furtherance of administration of Panchayats under this Act.

115. Power of Panchayats to frame bye-laws.—(1) Subject to the provisions of this Act and the rules made thereunder and the bye-laws, if any, made by the Prescribed Authority, a Panchayat may frame bye-laws—

- (a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;
- (b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into a river, pond, tank, well or any other place;
- (c) to prevent damage to public streets and to the property of Panchayats;
- (d) to regulate sanitation, conservancy and drainage in the area of Panchayats;
- (e) to prohibit or regulate the use of public places by shopkeepers or other individuals or the collection of market tolls on public streets;
- (f) to regulate the manner in which tanks, ponds and cess-pools, pasture lands, playgrounds, manure pits, lands for the disposal of dead bodies and bathing places shall be maintained and used.

(2) The draft of the bye-laws framed by Panchayats shall be published in the prescribed manner. Any objections received thereto shall be considered at a meeting of the Panchayat and the bye-laws as approved by the Panchayat shall thereafter be submitted for the sanction of the Prescribed Authority. The bye-laws as sanctioned by the Prescribed Authority shall come into force after they have been published in the prescribed manner.

CHAPTER X

MISCELLANEOUS AND REPEAL

116. Members and servants of Nyaya Panchayats, Panchayats, etc., to be public servants.—Every member or servant of a Nyaya Panchayat, a Panchayat, a Joint Committee or any other Committee constituted under this Act shall be deemed to be a public servant for the purposes of this Act.

117. Gratuity for servants.—The Panchayat may, in accordance with the rules made under this Act, grant a gratuity to any servant subject to the previous sanction of the Prescribed Authority.

118. Services to be honorary.—(1) No member shall receive any remuneration or allowances for his services on the Panchayat.

(2) No Panch of a Nyaya Panchayat shall receive any remuneration for his service on the Nyaya Panchayat but may receive such allowances as may be prescribed.

119. Members and Panches not to bid at sales.—A member of a Panchayat or a Panch of a Nyaya Panchayat or any other officer having any duty to perform in connection with any sale under this Act, shall not either directly or indirectly, bid for or acquire any interest in any property sold at such sale.

120. Notice not to be invalid.—No notice shall be invalid on account of any defect or omission in its form.

121. Power to compound offences.—(1) Subject to any rules made in this behalf, a Panchayat may, either before or after the institution of any case, compound an offence against this Act or any rule or bye-law made thereunder, on payment of such sum in cash to the Panchayat as may be prescribed.

(2) When an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded. All sums paid by way of composition under this section shall be credited to the Panchayat Fund.

122. Entry and inspection.—The Pradhan or Up-Pradhan of a Panchayat and, if authorised in this behalf by a Panchayat, any other member, officer or servant of such Panchayat, may enter into or upon any building or land, with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a Panchayat is authorised by this Act or by rules or bye-laws made thereunder, to make or execute, or which it is necessary for a Panchayat for any of the purposes, or in pursuance of any of the provisions of this Act, or of the rules or bye-laws, to make or execute:

Provided that—

- (a) except as expressly provided in this Act or in the rules or bye-laws made thereunder no such entry shall be made between sunset and sunrise;
- (b) except as expressly provided in this Act or in the rules or bye-laws made thereunder no building which is used as a human dwelling shall be so entered except with the consent of the occupier thereof or without giving the said occupier not less than four hours previous written notice of the intention to make such entry;
- (c) sufficient notice shall in every instance be given when any premises can otherwise be entered without notice to enable the inmates of an apartment appropriated for females to remove themselves to some part of

the premises where their privacy cannot be disturbed;
and

- (d) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

123. Suits against Panchayats.—(1) No suit or other legal proceeding shall be instituted against a Panchayat or against a member, officer or servant of the Panchayat or against any person acting under its or his direction for anything done or purporting to have been done in his official capacity under this Act, until the expiration of two months next after notice in writing has been, in the case of a Panchayat delivered in or left at the office of the Panchayat, and in the case of a member, officer or servant or any person acting under his direction or the direction of the Panchayat delivered to him or left at his office or place of abode, explicitly stating the cause of action, the nature of the reliefs sought, the amount of compensation, if any, claimed, and the name and place of abode of the intending plaintiff and the plaint shall contain a statement that such notice has been so delivered or left.

(2) Every action as described in sub-section (1) shall be commenced within six months from the date on which the cause of action accrues.

124. Protection to Panchayats, Nyaya Panchayats, etc.—(1) The provisions of the Judicial Officers' Protection Act, 1850 (XVIII of 1850), shall apply to the members of Nyaya Panchayats.

(2) No suit, prosecution or other legal proceedings shall be maintainable in any Court against a Panchayat or any member or officer thereof or any person acting under its or his direction in respect of any thing lawfully and in good faith done or intended to be done under this Act or any rule or bye-laws made thereunder.

125. Power and duties of Police in respect of offences and assistance to Panchayats.—Every Police Officer shall give immediate information to the Panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or bye-laws made thereunder and shall assist and obey all members, officers and servants of the Panchayat and Nyaya Panchayat in the exercise of their lawful authority.

126. Disputes with Panchayat.—If any dispute arises in regard to any matter to which the provisions of this Act or of any other law apply, between two or more Panchayats or between a Panchayat and a Municipal Committee, it shall be referred to the Prescribed Authority whose decisions shall be final and shall not be questioned in any court of law.

127. Staff.—(1) Subject to the approval of the Prescribed Authority and to such conditions as may be laid down by that Authority, a Panchayat or Nyaya Panchayat may appoint such officers and servants and on such salaries and allowances as it thinks fit.

(2) Notwithstanding anything in sub-section (1) a Panchayat may, in case of emergency, appoint an officer or servant without the

sanction of the Prescribed Authority for a period or periods not exceeding 3 months in the aggregate; but every such appointment shall forthwith be reported to that Authority.

(3) The powers of appointing, promoting, discharging and punishing of an officer or servant of a Panchayat or a Nyaya Panchayat shall vest in the Panchayat or Nyaya Panchayat, as the case may be; but the powers of promotion or punishment, may be delegated to such officer of the Panchayat or Nyaya Panchayat as may be prescribed provided that an appeal from the order of such officer shall lie to the Panchayat or Nyaya Panchayat, in the manner prescribed.

128. Secretary of Panchayat and Nyaya Panchayat.—(1) Subject to such directions as the State Government may give, every Panchayat or a group of Panchayats or every Nyaya Panchayat shall appoint its own Secretary subject to the approval of the Prescribed Authority.

(2) The Secretary shall, in the matter of leave, promotion, transfer, removal, dismissal or other disciplinary action be under the administrative control of the Panchayat concerned which shall exercise such control in the manner prescribed:

Provided that an order of a Panchayat removing or dismissing a Secretary shall be appealable within a period and in the manner to be prescribed, to the Prescribed Authority:

Provided that in the case of a Secretary holding a substantive post in any other department, all cases of the nature mentioned in sub-section (2) shall be referred by the Panchayat through the Prescribed Authority to the head of the department concerned.

129. Power to borrow.—With the sanction of the Prescribed Authority and subject to such conditions as may be prescribed, a Panchayat may borrow money from the State Government or with its sanction from any other source to carry out all or any of the purposes of this Act.

130. Expenses of Nyaya Panchayat.—(1) The expenses of the Nyaya Panchayat shall be charged to the Panchayat Fund of each of the units in a circle in equal proportions.

(2) All sums realized by way of court-fees in cases, suits or proceeding or by way of fines in cases tried and disposed of by a Nyaya Panchayat shall be handed over by the State Government to the Panchayats situated within the jurisdiction of the Nyaya Panchayat in equal proportions.

131. Act to over-ride Regulation VI of 1886 in case of repugnance.—If any provision contained in the Ajmer Rural Boards Regulation, 1886 (Regulation VI of 1886), is repugnant to any provision contained in this Act the latter provision shall prevail and the former provision shall, to the extent of the repugnancy, be void.

132. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the State Government as occasion may arise, may, by order, do anything which appears to it to be necessary for the purpose of removing the difficulty.

SCHEDULE I

(See section 58)

	Section
(a) Under the Indian Penal Code, 1860—	
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Committing a public nuisance	290
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Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse etc., whatever may be its value or any other animal of the value of Rs. 50 or upwards	429
Mischief by doing any act which causes diminution of supply of water for agricultural purposes	430
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Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	461
Intentional insult with intent to provoke a breach of the peace	504
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(b) Under the Cattle-trespass Act, 1871 (I of 1871) offences under sections 20 to 24 both inclusive.	
(c) Under the U. P. Removal of Social Disabilities Act, 1947 (U. P. Act XIV of 1947) as extended to the State of Ajmer <i>vide</i> Government of India Notification No.72/10/47-Pub.(A), dated the 17th January, 1948.	
(d) Under the Vaccination Act, 1880 (XIII of 1880)—Any offence.	
(e) Any other offence under any other enactment declared to be cognizable by a Nyaya Panchayat, by the State Government by notification.	
(f) Under the Prevention of Cruelty to Animals Act, 1890 (XI of 1890).	

SCHEDULE II

(See section 74)

Description of suits	Period of limitation	Time from which period begins to run
I	2	3
1. For money due on a contract.	3 years	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof.	3 years	When the plaintiff became entitled to the delivery of the movable property.
3. For compensation for wrongfully taking or injuring movable property.	1 year	When the movable property was wrongfully taken or when injury was done to it.
4. For damage caused by cattle trespass	6 months	When the damage was caused by the cattle trespass.

G. S. GAITONDE,
Secy. to the Govt. of Ajmer.